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RECENT DECISIONS

ATTACHMENT—MOTION TO DISSOLVE—WANT OF OWNERSHIP.—An attachment levy was made upon land as belonging to defendant, a non-resident, who under a special appearance moved to dissolve the attachment on the ground of his lack of interest in the property. *He'd*, the defendant cannot set up title in a stranger to defeat the attachment levy as upon his property. *Thornley v. Lawbaugh* (N. D.), 143 N. W. 348.

The rights of one having no interest in attached lands are not affected by its sale, hence the general rule is that defendant cannot object to attachment proceedings because of want of interest in the attached property. *Langdon v. Conklin*, 10 Ohio St. 439; *Mitchell v. Skinner*, 17 Kan. 563; *McDonald v. Marquardt*, 52 Neb. 820, 73 N. W. 288.

But this reasoning manifestly does not apply when the sole ground of attachment is non-residence. *Greenwood Gro. Co. v. Canadian Mill*, 72 S. C. 450, 52 S. E. 191, 2 L. R. A. (N. S.) 79 (*dictum*). A valid levy on the property of the defendant is the sole means of acquiring jurisdiction and if none of the defendant's property be levied upon, the court is without jurisdiction, regardless of what might be the effect of a judgment in such a case, and the defendant is a proper party to object. *Harris v. Taylor*, 35 Tenn. 536, 67 Am. Dec. 576; *Guild v. Richardson*, 23 Mass. 364; *Beasley v. Lennox-Hadleman Co.*, 116 Ga. 13, 42 S. E. 385. Since any action taken by the court is void and the court could, *ex mero motu*, dismiss the proceedings, the defendant should be allowed, as an *amicus curiæ*, to call the court's attention to the lack of jurisdiction and thus prevent a waste of public time and money.

BANKRUPTCY—ACTS OF BANKRUPTCY—APPOINTMENT OF RECEIVERS BECAUSE OF INSOLVENCY.—A petition in bankruptcy was filed against a debtor alleging as the act of bankruptcy, under § 3 a (4), the appointment, because of insolvency, of a receiver to take charge of the debtor's property. The ground of the appointment of the receiver was that the debtor was unable to meet his obligations as they matured in the ordinary course of business, and not that he was insolvent according to the bankruptcy definition. *Held*, the construction of the term insolvency, as used in § 3 a (4), is to be governed by the definition given in the bankruptcy act and not by the state rule as to insolvency. *Re Butler & Co.* (C. C. A.), 207 Fed. 705. See NOTES, p. 322.

BANKRUPTCY—JURISDICTION—INSOLVENCY.—The defendant applied for appointment of a receiver and thereupon the plaintiffs filed a petition in bankruptcy against the defendant, alleging insolvency because the title to certain property held by the debtor is fictitious and fraudulent. *Held*, the record title of the defendant will not be questioned by the court in order to reduce the assets for the purpose of showing insolvency. *Blackstone et al. v. Everybody's Store* (C. C. A.), 207 Fed. 752.

Here the petitioners, for the sake of proving insolvency, are not attempting to exclude property fraudulently transferred by the debtor,